

1 September of 2004, correct?

2 A Say again.

3 Q Do you recall that your deposition or  
4 interview was taken as part of this ongoing proceeding  
5 back on September 27, 2004, correct?

6 A Uh-huh.

7 Q And --

8 MR. SHOOK: Just a second, Martin.

9 Mr. Lopez, when you're responding to a  
10 question please say either yes or no. I know what  
11 you're saying, but the record probably won't pick it  
12 up. So please say yes or no.

13 THE WITNESS: Certainly. Yes.

14 MR. PRICE: Thank you, counsel.

15 BY MR. PRICE:

16 Q And here this portion of the interview,  
17 although it may not be clear, let me find a way to  
18 make it more evident for you. You're being asked  
19 questions by Mr. Shook. Do you recall that?

20 A Yes, I do.

21 Q Now, can you read out loud the question  
22 that begins on page 139 line 18?

23 A Certainly. "And how is that GGPR came to  
24 possess this document or the various documents that  
25 make up Exhibit A?

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1                   Answer: I don't -- we may have had these  
2 documents before we even filed the Petition. These may  
3 have been leftover documents. They basically provided  
4 a whole box of papers. We had a list of things that we  
5 knew were not capiche, like employees-- management  
6 employees showing without, you know -- and so we had  
7 a list of all these sorts of things to look for, and  
8 Dave looked for those things. And these may have been  
9 things that were extracted at that time as well."

10               Q       And then Mr. Shook when you used that  
11 wonderful Italian term, what did you mean to say, that  
12 things weren't quite kosher? And can you tell me what  
13 you answered?

14               A       Right. Weren't kosher, right.

15               Q       And these are the documents that Mr. Evans  
16 procured for GGPR, is that correct?

17               A       They may have, I don't know.

18               Q       Mr. Evans that we're talking about is Dave  
19 Evans, the station engineer we discussed before,  
20 correct?

21               A       Correct.

22               Q       And you testified here that he provided  
23 you a whole box of documents that weren't quite  
24 capiche and were extracted, is that right?

25               A       That's correct.

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1 MS. LEAVITT: Excuse me, Your Honor. On  
2 page 140 the testimony actually was "these may have  
3 been things that were extracted at that time," not  
4 that they were.

5 MR. PRICE: Well I recognize the  
6 documents, the testimony speaks for -- the document  
7 states what it states. And I appreciate the  
8 clarification.

9 MS. LEAVITT: Just in terms of  
10 characterizing that.

11 MR. PRICE: I think what I was asking Mr.  
12 Lopez was Mr. Evans provided you a large box -- a box  
13 of documents which you knew to have been acquired in  
14 ways that were not capiche or kosher, correct?

15 THE WITNESS: I don't know if they were  
16 acquired in ways that weren't kosher. I knew that  
17 these were documents that in certain settings might  
18 not be appropriate documents to have.

19 BY MR. PRICE:

20 Q Well, actually you said they weren't quite  
21 kosher, right? That is your answer?

22 A That's correct.

23 Q And --

24 JUDGE SIPPEL: Well, he didn't say -- the  
25 question wasn't they weren't quote kosher. The

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1 question was weren't kosher. Right. Oh, I'm sorry.

2 That was the answer.

3 MR. PRICE: The question was weren't  
4 quite. The answer was right.

5 JUDGE SIPPEL: I stand corrected. Okay.  
6 So the answer was "weren't kosher," right.

7 BY MR. PRICE:

8 Q And after you filed the Petition to Deny  
9 you became aware that there may have been files at  
10 KALW for which Mr. Evans was not authorized to access,  
11 correct?

12 A That's correct.

13 Q Now do you consider someone trustworthy if  
14 they take things that don't belong to them?

15 A Just on its face, no.

16 Q Now, Mr. Lopez, you presently reside in  
17 the San Francisco area, is that correct?

18 A That's correct.

19 Q And as I understand it from paragraph 1 of  
20 your written testimony you work for several news media  
21 outlets in the San Francisco area?

22 A That's correct.

23 Q And in that capacity you cover or do you  
24 consider yourself generally familiar with issues of  
25 interest to the San Francisco community?

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1 A Yes, I do.

2 Q Would you say that you make an effort to  
3 keep up with the issues of importance to the local  
4 community?

5 A Yes, I do.

6 Q That would be an important part of your  
7 job, I take it, correct?

8 A Correct.

9 Q And I take it you are aware because it's  
10 been widely reported that the -- I'm sorry. Strike  
11 that. That was a preface question.

12 You're aware that SFUSD, the San Francisco  
13 Unified School District is the nominal party in this  
14 proceeding?

15 A Correct. I'm aware.

16 Q And are you aware that the San Francisco  
17 Unified School District is currently facing a  
18 projected budget deficit of \$22 million?

19 A I was aware they were facing a budget  
20 deficit. I wasn't sure how much it was.

21 Q And are you aware based on your knowledge  
22 of local community issues in San Francisco that the  
23 School Board recently had to close several schools in  
24 the city in an effort to close that budget shortfall?

25 A Yes, I'm aware of that.

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1 Q And are you aware that the School Board  
2 recently approved layoff of over 100 teachers and 75  
3 classroom aides?

4 A I wasn't aware of the layoffs.

5 Q You're aware that the Board is considering  
6 cuts to early child development programs?

7 A In general I'm aware that they're cutting  
8 programs, and I would assume that things like that  
9 might be part of it.

10 Q Student nutrition programs?

11 A The specifics in these areas I'm not aware  
12 of.

13 Q But you are aware that the School Board is  
14 considering cuts to all kinds of services that they  
15 provide, is that correct?

16 A Certainly. Yes.

17 MR. PRICE: No further questions, Your  
18 Honor.

19 MS. LEAVITT: Well, just one or two  
20 questions, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. LEAVITT:

23 Q Are you aware of declining student  
24 enrollment in the San Francisco Unified School  
25 District?

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1 A Actually, no, I'm not aware of that.

2 MS. LEAVITT: I think that's it, Your  
3 Honor.

4 JUDGE SIPPEL: Okay. You want to move  
5 this as an exhibit? You've got it marked for  
6 identification.

7 MR. PRICE: Yes. Can we move in. SFUSD  
8 moves to admit into evidence Exhibit 77 in this  
9 matter.

10 JUDGE SIPPEL: Objections?

11 MS. LEAVITT: No, Your Honor.

12 JUDGE SIPPEL: No objections. It's  
13 received in evidence as 77.

14 (Whereupon, the document  
15 previously identified as SFUSD  
16 Exhibit 77 was received in  
17 evidence.)

18 I guess tomorrow you can bring in copies  
19 paginated for the reporter. I don't know. Does he  
20 have two copies now?

21 MR. PRICE: I gave him two copies. And  
22 they're actually pre-paginated because they were used  
23 as an exhibit. So they do indicate 1 through 12.

24 JUDGE SIPPEL: That's good enough.

25 Well your written testimony and background

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1 is, I guess, is sufficient for what I need.

2 I have no questions. And you're excused as  
3 a witness. Thank you.

4 (Whereupon, the witness was excused.)

5 JUDGE SIPPEL: Let's go off the record.

6 (Whereupon, at 3:32 p.m. off the record  
7 until 3:43 p.m.)

8 MR. PRICE: Your Honor, the next witness  
9 for the San Francisco Unified School District is Ms.  
10 Nicole Sawaya.

11 Whereupon,

12 NICOLE SAWAYA

13 was called as a witness by Counsel for the Licensee,  
14 and having been first duly sworn, assumed the witness  
15 stand and was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PRICE:

18 Q Ms. Sawaya, I've placed a bound volume of  
19 documents, the first of which is labeled SFUSD Exhibit  
20 T-3, do you see that?

21 A I do.

22 Q And behind that document are tabs  
23 corresponding to exhibits identified in your written  
24 direct testimony. Can you confirm that that's what  
25 the document is?

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1 A I confirm that.

2 Q Now, Ms. Sawaya, were you asked to prepare  
3 written direct testimony in this case?

4 A I was.

5 Q And is that a copy of the document that  
6 you've executed in front of you, Exhibit T-3?

7 A Yes, it is.

8 Q Are there any corrections you need to make  
9 to that document before we proceed today, other than  
10 perhaps photocopying it with the pages slightly  
11 straighter?

12 (Laughter).

13 A No.

14 MR. PRICE: Your Honor, Ms. Sawaya is  
15 presented for cross examination.

16 JUDGE SIPPEL: Ms. Leavitt?

17 MS. LEAVITT: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MS. LEAVITT:

20 Q Good afternoon, Ms. Sawaya.

21 A Good afternoon, Ms. Leavitt.

22 Q I just have a couple of questions about  
23 your background, your interesting background.  
24 Starting in 1970 during your deposition you had  
25 mentioned and in your direct testimony you mentioned

1 that you worked for the Shakespeare -- you were hired  
2 by a Shakespeare company. Can you describe what  
3 position you landed with them and when?

4 A I believe that was -- I don't know exactly  
5 the month in 1970, but it was definitely the year of  
6 1970. And I was hired as an actor.

7 Q And what kind of roles did you play?

8 A They were from Shakespeare. So I played  
9 roles from Shakespeare. I was a fairy in *A Midsummer*  
10 *Night's Dream*. I was Hermia. I was Juliet in *Romeo and*  
11 *Juliet*. I was Lucy Brown in the *ThreePenny Opera* by  
12 Bertolt Brecht.

13 Q I was going to say that's not a  
14 Shakespeare play I remember. (Laughing.)

15 A And I forget what role I did in *As You*  
16 *Like It*.

17 Q And how long were you acting?

18 A With that company?

19 Q Yes.

20 A Three years.

21 Q And you have continued the acting  
22 profession?

23 A No.

24 Q And it 1970 you came up to San Francisco.  
25 Have you stayed in that area since that time?

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1 A Majority.

2 Q And we'll get into specifics shortly.

3 Do you have any ongoing connections with  
4 the performing arts?

5 A I live in a building that is an artist's  
6 non-profit building. And it has a theater and a  
7 gallery and two dance studios associated with it.  
8 We're not for profit. And so I volunteer time within  
9 the building because we're self-governed. So sometimes  
10 I'm on committees, sometimes I'm what's known as a  
11 weam rep.

12 Q Is that the Theater Artaud, is that the  
13 building that you live in?

14 A It's called Project Artaud.

15 Q Okay.

16 A And there is a theater adjoining to it.

17 Q Okay.

18 JUDGE SIPPEL: It sounds like Chelsea in  
19 New York.

20 BY MS. LEAVITT:

21 Q And what is your educational background?  
22 When did you get your degree?

23 A I was awarded my degree in -- well, it was  
24 January 1993.

25 Q And from what university or college?

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1 A San Francisco State University.

2 Q And what was your major?

3 A Broadcast communications arts.

4 Q And what is broadcast communications arts?

5 A It is pretty much everything having to do  
6 with broadcasting; radio, television.

7 Q And is it in terms of how to be a  
8 broadcaster, is that the course curriculum is?

9 A Well, it's a four year university. And  
10 there are many avenues you can specialize in. But  
11 they taught you everything from operating a television  
12 camera, to writing scripts for television, to  
13 journalism, to radio.

14 Q Is there anything in the curricula that  
15 involved into the radio station or television station?

16 A No.

17 Q Okay. You mentioned journalism, I believe  
18 that you have also served as a journalist?

19 A Yes, I do.

20 Q And can you tell who you work for?

21 A Well, I was known as what's called a  
22 stringer. And I also worked as an independent  
23 producer for KQED radio and KQED television in San  
24 Francisco.

25 Q And what years were you at KQED?

1           A       I seem to recall that the summer that I  
2 interned, I believe it was 1989. The years start to  
3 mush together.

4           Q       Yes. Before we go further along this  
5 line, you just said something that triggered a  
6 thought. What did you do to prepare for today's  
7 testimony?

8           A       I read through documents and my direct  
9 testimony.

10          Q       Okay. Which documents?

11          A       Everything that's here in this package.

12          Q       Okay. For the record, I'd like to get  
13 some specific. So you reviewed your direct testimony?

14          A       I reviewed my direct testimony. I then  
15 reviewed my calendar from March 2001. I then reviewed  
16 before the Federal Communications Commission,  
17 Washington, D.C. --

18                 MR. PRICE: Your Honor, it might save some  
19 time if she just identified she reviewed Exhibit 16  
20 through 30.

21                 JUDGE SIPPEL: Well, it's up to Ms.  
22 Leavitt.

23                 MR. PRICE: I apologize.

24                 JUDGE SIPPEL: However you want to  
25 proceed.

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1 MS. LEAVITT: If you don't mind, Ms.  
2 Sawaya is pretty good about quickly summarizing  
3 things.

4 BY MS. LEAVITT:

5 Q And this is great, exactly what you're  
6 doing.

7 A I reviewed my deposition.  
8 I reviewed an email from March 26, 2001.  
9 I reviewed my email from Tuesday, April 3,  
10 2001.

11 I reviewed an email Tuesday, April 3,  
12 2001.

13 I reviewed the KALW(FM) Report on license  
14 renewal to Dr. Arlene Ackerman.

15 I reviewed an email dated Thursday, May  
16 17th.

17 I reviewed an email that has no date on it  
18 from me to Ernie Sanchez.

19 I reviewed another email that has no date  
20 on it from me to Ernie Sanchez.

21 I reviewed an email that has no date on it  
22 from me to Ernie Sanchez.

23 I reviewed an email from Jackie Wright,  
24 Thursday, May 29, 2003.

25 I reviewed an email from me to Ernie

1 Sanchez, no date.

2 I reviewed an email to -- from Jackie  
3 Wright, dated July 23, 2003.

4 I reviewed an email from me to Ernie  
5 Sanchez, undated.

6 I reviewed an email from me to Ernie  
7 Sanchez "long time undated."

8 I reviewed an email from me to Ernie  
9 Sanchez "interesting . . ."

10 I reviewed an email from me to Ernie  
11 Sanchez "Hello and" undated.

12 I reviewed an email from me to Ernie  
13 Sanchez "Hello," undated.

14 I reviewed an email from me to Ernie  
15 Sanchez "Any news?" undated.

16 I reviewed an email from me to Ernie  
17 Sanchez, "It is now May," undated.

18 I reviewed an email from me to Ernie  
19 Sanchez "News?" undated.

20 I reviewed an email from me to Ernie  
21 Sanchez, dated "License and letters."

22 I reviewed an email from me dated June 28,  
23 2004 to William Helgeson.

24 I reviewed an email from Bill Helgeson,  
25 dated June 20, 2004 to me.

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1 I reviewed an email from Bill Helgeson,  
2 dated April 05, 2004 to me.

3 An email from Nicole, dated July 1, 2003  
4 to Mr. Helgeson.

5 An email from Bill, dated Wednesday  
6 January 28, 2004 to me.

7 And I reviewed from me, dated October 6,  
8 2004 to our Public Affairs Programmers without saying  
9 all their names.

10 I reviewed a memorandum, dated October 21,  
11 2004 to Myong Lei and Lorna Ho at San Francisco  
12 Unified School District.

13 I reviewed my State of the Station report,  
14 dated 2004.

15 I reviewed the Program Guides from KALW,  
16 and I believe those span from July 2003, basically the  
17 summer quarter and then the winter quarter 2004 -- or  
18 the fall quarter 2003, the winter 2004 and the spring  
19 quarter 2004 which takes us to June of 2004.

20 And then I reviewed a memorandum, dated  
21 September 27, 2004 from Dr. Arlene Ackerman,  
22 Superintendent of Schools, the San Francisco Unified  
23 School District.

24 Q Thank you very much. I appreciate that.

25 MR. PRICE: Actually, I have to interject

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1 one thing for Your Honor's benefit. As we did with Mr.  
2 Ramirez' prepared testimony here, we only included  
3 portions of the Program Guide to save some paper. So  
4 Exhibit 47, I believe it is, should just be excerpts  
5 from the Program Guide.

6 JUDGE SIPPEL: All right. The only  
7 question I have on this is there are tabs that are  
8 marked 16 through 48. And there are stamped exhibits.  
9 They don't all have corresponding numbers. Some do,  
10 some don't.

11 MR. PRICE: They should all have them, but  
12 if they don't, we can double check tonight and make  
13 sure you get a copy tomorrow.

14 JUDGE SIPPEL: Yes, we do. Yes. So the  
15 tabs numbers coincide with the exhibit numbers?

16 MR. PRICE: They should to make it easier  
17 to refer. Rather than do 1, 2, 3, 4 we did it by  
18 exhibit number.

19 JUDGE SIPPEL: But am I to assume that the  
20 exhibit number that's stamped on the lower right hand  
21 corner is the same exhibit number that you're using in  
22 your primary document?

23 MR. PRICE: Yes, Your Honor.

24 JUDGE SIPPEL: You know what I'm saying?

25 MR. PRICE: Yes, I do. That's correct.

1 JUDGE SIPPEL: All right. That makes it  
2 easier.

3 MR. PRICE: One other thing I wanted to  
4 mention. We provided excerpts of the Program Guides.  
5 And I know we've gone through the Program Guides, some  
6 of them had "Bill's Copy" written them and have been  
7 kind of hard to read.

8 I didn't know if the Bureau had any  
9 interest or if Your Honor had any interest in the  
10 actual hard copy of what this document looks like. It  
11 might give you a better sense.

12 JUDGE SIPPEL: No.

13 MR. PRICE: Okay.

14 JUDGE SIPPEL: I only want to look at  
15 evidence.

16 MR. PRICE: Very well.

17 JUDGE SIPPEL: All right.

18 MS. LEAVITT: Thank you, Your Honor.

19 JUDGE SIPPEL: I mean, I can't read  
20 something, I'll let you know. But I appreciate your  
21 proffer.

22 Okay. Your witness, Ms. Leavitt.

23 BY MS. LEAVITT:

24 Q Outside of these documents that you just  
25 recited for us, Ms. Sawaya, have you done anything

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1 else, have you referred to any other documents?

2 A I looked at my April 2001 calendar. I  
3 scanned through as many emails as I possibly could to  
4 bring to the table anything that was relevant.

5 Q Did you look at any of the pleadings that  
6 have been filed by the District, such as admissions,  
7 answers to interrogatories and the other filings that  
8 the District has made since September of this year, of  
9 2004 rather?

10 A I believe I looked at them. Yes.

11 Q Okay. Do you recall specifically any  
12 documents you might have looked at?

13 A I looked at the hearing designation order.

14 Q All right.

15 A I, of course, did a declaration and I, of  
16 course, looked at that because it was my declaration.

17 Q You've made several declaration. Did you  
18 look at all of the declaration?

19 A I remember it was the declaration after my  
20 deposition.

21 Q Okay. Any other documents?

22 A Let's see, the Letter of Inquiry from  
23 2001.

24 Q And did you look at the response to the  
25 Letter of Inquiry or sometimes I'll refer to it as an

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1 LOI, just like it's abbreviated.

2 A Yes, I'm familiar with that acronym now.

3 Q Have you looked at the response?

4 A I -- I did look at the response, yes.

5 Q Have you looked at anybody's deposition  
6 testimony?

7 A No.

8 Q Okay. Have you spoken to anybody about  
9 how the hearing has been progressing?

10 A No, I have not.

11 Q Have you talked to your attorneys about  
12 the hearing?

13 A Just checking in with them at the end of  
14 the day if they knew when I might be called.

15 Q Okay. Okay. Thank you.

16 JUDGE SIPPEL: You didn't talk with Mr.  
17 Helgeson or with Mr. Ramirez, right?

18 THE WITNESS: No, Your Honor. I did not.

19 JUDGE SIPPEL: All right. I have to ask  
20 that question because there's what they call a  
21 sequestration order and I got to be sure that that is  
22 being complied with.

23 So you answered my question. Let's  
24 proceed.

25 MS. LEAVITT: Thank you.

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1 JUDGE SIPPEL: Thank you.

2 BY MS. LEAVITT:

3 Q Back at KQED radio station, I think that's  
4 where we left off, what type of topics did you report  
5 on when you were a reporter?

6 A I started as an intern.

7 Q Yes.

8 A So first I had to learn how to manipulate  
9 the equipment, which I did, meaning their field kits,  
10 what we would take out into the field.

11 In the beginning they sent me to cover  
12 stories that were happening at City Hall, local  
13 stories.

14 They asked me to stay on after my  
15 internship was over. And I continued on, and they  
16 assigned me what they call the community beat, which  
17 basically meant I covered issues that were happening  
18 with the community. I would covering issues that was  
19 happening with the Latino community in the Mission  
20 District. I would cover issues that was happening  
21 with the youth community.

22 And then I also covered what was known was  
23 Redwood Summer,

24 Q I'm just curious, Redwood Summer, what is  
25 that?

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1           A       I remember that it was a lot of protests  
2 about deforestation of the redwood forests up in  
3 northern California.

4           Q       And the youth community, did you happen to  
5 cover anything regarding the San Francisco Unified  
6 School District?

7           A       I don't recall. I don't think so. It was  
8 summer.

9           Q       (Laughter).       But were you only a  
10 journalist during the summer?

11          A       When I first started my internship. After  
12 that, they really gave me the community beat and the  
13 environmental beat, if you will, covering this Redwood  
14 Summer.

15          Q       Okay. So did that extend though beyond  
16 the summer? Were you a journalist during any other  
17 times other than the summer?

18          A       Yes, I was. I'm not sure what year it was,  
19 but we had the first war in Iraq. And there were many  
20 demonstrations in San Francisco.

21          Q       That would have been 1991, I think.

22          A       So they gave me the street beat, and I  
23 covered the demonstrations in San Francisco.

24          Q       When you were covering those  
25 demonstrations or any of the other topics that you

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1 covered, did that require you to interview people?

2 A All journalist interview people, yes.

3 Q I'm not familiar, I'm sorry, so please  
4 indulgence me. I've never spoken to a journalist  
5 before. So it's kind of new and exciting for me.

6 You interviewed people? Did you have to do  
7 independent research?

8 A I always did my best to try and find as  
9 many -- what's the word -- leads to a story. How  
10 shall I say it? Points of view to a story. It's one  
11 of the things you're taught in journalism.

12 Q So you also tried to talk to maybe other  
13 sources; that's a word I've heard used in the  
14 newspapers. Like you try to get multiple sources for  
15 a story or trying to figure out what occurred?

16 A If the news story lent itself to that.

17 Q Right. Right. Okay. And basically would  
18 you say as a journalist your job was kind of to ferret  
19 out the truth?

20 A If I was an investigative reporter, I  
21 would say that was my job. But I was not an  
22 investigative reporter.

23 Q What kind of reporter were you then? Like  
24 there's an investigative reporter, what other types  
25 are there?

1           A       There's a reporter like I was that was  
2 sent out, go find out what happened at City Hall  
3 today. I would go the Mayor's press conference. I  
4 would come back. I would write a 30 second piece about  
5 it.

6           Q       So you had to quickly assimilate and  
7 report on events as they transpired then, is that kind  
8 of the reporting that you did?

9           A       KQED had -- has a daily news program. So,  
10 yes, there always is a big turnover of trying to get  
11 30 second minute reports in.

12          Q       That sounds like it was a lot of pressure  
13 in terms of trying to get things in a very limited  
14 time frame, 30 seconds. It seems like you had to work  
15 under tight deadlines?

16          A       I did have to work under tight deadlines,  
17 but they were not necessarily highly complex stories.

18          Q       Okay. Thank you.

19                   In your T-3 page 3 you identified that you  
20 worked from, I think it was April '93 to December 1996  
21 at station KZYX(FM) in Mendocino.

22          A       I take it T means testimony page 3?

23          Q       Yes. I think that would be the first  
24 document in your binder.

25          A       Yes, I see that.

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1 I'm sorry. What was the question again?

2 Q (Laughter). You worked -- you next worked  
3 for station KZYX, is that correct?

4 A After I graduated I applied for a position  
5 at KZYX.

6 Q Right. Okay. So that was kind of your  
7 next job after you were a journalist? Was that your  
8 job after graduating?

9 A I'd like to clarify something, please.

10 Q Please.

11 A I worked as an independent journalist.

12 Q Yes.

13 A I was also in college at the time. I  
14 wasn't on payroll. So I paid per the piece.

15 Q Oh. Okay. Thank you for clarifying that.

16 A I think that's an important distinction to  
17 make.

18 JUDGE SIPPEL: She being a stringer, I  
19 think that's how that works.

20 MS. LEAVITT: Okay.

21 JUDGE SIPPEL: What was the year that you  
22 started at KZYX?

23 THE WITNESS: I believe that was 1993,  
24 three months after I had graduated.

25 JUDGE SIPPEL: Thank you.

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